



648.43518X00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: TETSUKA et al

Serial No.: 10/784,275

Filed: February 24, 2004

For: Plasma Processing Apparatus And Plasma
Processing Method

Art Unit: 1763

Examiner: R. Zervigon

RESPONSE

Mail Stop: Response (No Fee)
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 14, 2006

Sir:

The following remarks are respectfully submitted in connection with the above-identified application, in response to the Office Action dated February 14, 2006.

The requirement for restriction to one of the inventions identified by the Examiner as Invention I - claims 1 - 8, drawn to a plasma processing apparatus, classified in class 118, subclass 723E, and Invention II - claim 9, drawn to a plasma processing method, classified in class 427, subclass 533, is traversed as being improper, and reconsideration and withdrawal of the restriction requirement are respectfully requested.

The Examiner indicates that Inventions I and II are related as process and apparatus for its practice while referring to the requirements of MPEP §806.05(e) for

showing distinctness therebetween, noting that the inventions are distinct if it can be shown that either:

(1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (emphasis added)

The Examiner contends that "In this case the apparatus as claimed can be used to practice another and materially different process, for example non-plasma processing such as a CVD method." (emphasis added).

The Examiner's suggestion that the apparatus as claimed can be used to practice non-plasma processing, is contrary to the claimed features of Invention I. For example, independent claim 1 of Invention I recite the features of "plasma processing apparatus, processing a substrate with plasma"; "applying a high frequency to a reaction chamber so as to generate plasma therein" and that "a surface portion of an inner wall of the reaction chamber that is directly exposed to plasma is covered with a dielectric". The Examiner's suggestion that the plasma processing apparatus as claimed, can be utilized to practice non-plasma processing, apparently without generation of plasma and exposing an inner wall of the reaction chamber to plasma, does not represent the "apparatus as claimed", such that the Examiner's contentions do not relate to distinctness in accordance with the requirement of MPEP §806.05(e). Accordingly, applicants submit that the Examiner has failed to show distinctness in accordance with the requirements of MPEP §806.05(e), and the restriction requirement, as set forth by the Examiner, is improper, and should be withdrawn.

Applicants further note that the features of the plasma processing method as recited in claim 9 of Invention II is coextensive with the plasma processing apparatus of claim 1 of Invention I, when considered with its dependent claims 2 - 4, for

example. Thus any suggestion by the Examiner of non-plasma processing or that the apparatus, as claimed, can be used to practice another and materially different process than that which is claimed in claim 9 of Invention II has no basis in fact. As such, the requirement for restriction should be withdrawn.

In order to provide a complete response to the restriction requirement, applicants provisionally elect, with traverse, Invention I including claims 1 - 8 drawn to a plasma processing apparatus.

For the foregoing reasons, applicants submit that all claims present in this application should be under consideration and favorable action with respect to all claims is respectfully requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 648.43518X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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